

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A
JUDGE, No. 03-14

NOTICE OF FORMAL CHARGES

TO: The Honorable James E. Henson
Circuit Judge
Ninth Judicial Circuit
2000 E. Michigan Street
Orlando, Florida 32806

YOU ARE HEREBY NOTIFIED THAT the Investigative Panel of The Florida Judicial Qualifications Commission, by a vote of at least five members at its meeting held in Tampa, Florida on October 10, 2003, has determined, pursuant to Rules 2(2) and 6 of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, Section 12(b) of the Constitution of Florida, that probable cause exists for formal proceedings to be instituted against you.

Formal proceedings accordingly are hereby instituted to inquire into the following charges:

COUNT ONE
MISCONDUCT WHILE A JUDGE

1. In late 2000, while you were a county judge, you asked Rogelio Candelaria, a bail bondsman, to arrange a meeting between you and Dr.

Alberto Jimenez, whose daughter, Diana M. Jimenez, was facing a charge of DUI manslaughter.

2. On or about December 18, 2000, while you were a county judge, you met with Dr. Jimenez, who had previously retained Steve Jablon, Esq., to represent Diana Jimenez. The purpose of the meeting was for you to be retained in place of Mr. Jablon. At the meeting, you persuaded Dr. Jimenez to discharge Mr. Jablon and to retain you.

3. At the meeting with Dr. Jimenez, on or about December 18, 2000, in Mr. Candelaria's office, and while you were a county judge, you accepted a fee of \$15,000 from Dr. Jimenez for the representation of his daughter.

4. On or about December 20, 2000, while you were a county judge, you were present in the courtroom at a hearing to set bond for Ms. Jimenez.

COUNT TWO

MISCONDUCT WHILE A LAWYER

A. ADVICE TO CLIENTS TO LEAVE JURISDICTION

5. You represented Diane M. Jimenez, who was arrested on December 12, 2000 for DUI manslaughter and other related charges. In or about September or October, 2001, while Ms. Jimenez was released from jail on a \$100,000 bond, you met with her and her father and discussed the possibility of Ms. Jimenez fleeing to Colombia, and you advised her to do so.

6. You represented Jerry Lee Thompson, who was arrested on April 29, 2001 for (i) unlawfully carrying a concealed handgun; (ii) unlawfully

possessing 10 grams or less of marijuana; and (iii) using or possessing drug paraphernalia. In or about the summer and fall of 2001, while Mr. Thompson was released from jail on a \$25,000 bond, you advised him to flee to Mexico to avoid the charges he faced.

7. You represented Hector Rodriguez, Jr., who was arrested on March 14, 2001 for sexual battery charges. In or about January, 2002, while Mr. Rodriguez was released from jail on a \$75,000 bond, you advised him to flee the jurisdiction, which he did.

B. INADEQUATE REPRESENTATION OF CLIENTS

8. In the course of representing Ms. Jimenez, you failed to (i) properly investigate the case; (ii) hire a private investigator, as you promised; (iii) file appropriate motions in Ms. Jimenez's case; (iv) associate other counsel on the case, as you promised; (v) return Ms. Jimenez's telephone calls; and (vi) communicate the State's settlement offer to Ms. Jimenez of 10 or 12 years imprisonment, which was less than the 16 years to which she was later sentenced.

9. In or about October, 2002, you began representing Kathryn M. Cornelliouss to seek a reduction in her sentence for felony petty thefts, and assured her you could obtain a reduction or removal of \$3,200 in court costs charged to her. In representing Ms. Cornelliouss, you failed to (i) timely appear for the hearing on the modification of her sentence on or about November 18, 2002, and appeared only after being called by Ms. Cornelliouss'

mother; (ii) meet with Ms. Cornelliouss prior to the hearing; (iii) review Ms. Cornelliouss' file prior to the hearing; (iv) review the applicable sentence reduction law; and (v) inform Ms. Cornelliouss that you were then a candidate for circuit judge, and that limitations on your time did not permit you to represent her properly.

C. STOPPED CHECK PAYMENT

10. In or about August, 2002, you issued your check in the amount of \$600 payable to the order of Gemini Bail Bonds. You wrote the check to Gemini in settlement of a theft claim brought by Gemini's owner, Richard F. Flood, in the case of State v. Robert Cockcroft, Jr.. Relying upon your payment, the State dismissed the charges against Mr. Cockcroft. However, you stopped payment on that check, and neither Gemini Bail Bonds nor Mr. Flood received the \$600 settlement payment.

Conduct unbecoming a member of the judiciary may be proved by evidence of specific major incidents which indicate such conduct, or it may be shown by an accumulation of small and ostensibly innocuous incidents which, when considered together, emerge as a pattern of conduct unbecoming a member of the judiciary. See In re Kelly, 238 So.2d 565, 566 (Fla. 1970).

The acts described above, if they occurred as alleged, were in violation of:

(1) Canons 1, 2, 3, and 5 of the Code of Judicial Conduct, which were then applicable to you as a county judge, and

(2) Rules 4-1.1, 4-1.2(d), 4-1.3, 4-1.4, 4-8.4(a), 4-8.4(b), and 4-8.4(c), Rules of Professional Conduct, which were then applicable to you as a lawyer and member of The Florida Bar.

Further, these acts, if they occurred as alleged, would impair the confidence of the citizens of this state in the integrity of the judicial system and in you as a judge, would constitute conduct unbecoming a member of the judiciary, could demonstrate your present unfitness to hold the office of judge, and could warrant discipline, including removal from office, and discipline as an attorney.

PLEASE TAKE NOTICE in accordance with the provisions of the Rules of the Florida Judicial Qualifications Commission, as revised, that you have twenty (20) days following service of this notice to file a written answer to the charges. The original of your response and all subsequent pleadings must be filed with the Clerk of the Supreme Court of Florida, and you must also comply with the requirements of the Supreme Court of Florida requiring simultaneous filing of a DOS formatted three and one-half diskette in Word Perfect 5.1 (or higher) format.

Copies of your answer should similarly be served on the General Counsel, Special Counsel and Executive Director of the Florida Judicial Qualifications Commission.

Dated this 17 day of Dec., 2003.

INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

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Special Counsel for the Florida
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Formal Proceedings has been furnished by certified mail #7001 2510 0007 6248 3831, return receipt requested, to the Honorable James E. Henson, Circuit Judge, Ninth Judicial Circuit, 2000 E. Michigan Street, Orlando, Florida, 32806, and Kirk N. Kirkconnell, Esq., 1150 Louisiana Avenue, P.O. Box 2728, Winter Park, Florida, 32790, on this 6th day of January, 2004.

Brooke S. Kennerly
Executive Director
Florida Judicial Qualifications
Commission

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